GRANTED ISSUES

NOTE: THE WORDING OF THE ISSUES IS TAKEN VERBATIM FROM THE PARTIES' PETITIONS FOR DISCRETIONARY REVIEW.

ISSUES GRANTED FEBRUARY 27, 2019

18-1199 EBIKAM, OBINNA BEXAR ASSAULT

Whether a defendant's failure to admit the exact manner and means of an assault as set forth in a charging instrument is a sufficient basis to deny a jury charge on self-defense.

ALPHABETICAL LISTING WITHOUT ISSUES

PDR NO.	NAME	DATE GRANTED
18-0711	ADAMS, BRANDON JOSEPH	09/12/18
17-1346	ALFARO-JIMENEZ, PABLO	04/11/18
18-1042	ALLEN, RUBEN LEE	12/12/18
18-0561	BELTRAN DE LA TORRE, LISANDRO	10/03/18
18-0921	BUCK, MICHAEL J.	12/05/18
18-0527	BURG, JAMES ALLAN II	09/12/18
18-0723	CARSNER, LAURA	12/05/18
17-0771	CHAMBERS, JOHN	01/10/18
18-0560	COUTHREN, DONALD	09/12/18
18-0314	CUEVAS, JEREMY	06/06/18
18-0577	CURRY, STEVEN	12/12/18
18-0265	DAVENPORT, MARC	06/20/18
18-0710	DELAFUENTE, JESSE	12/12/18
18-1299	DIAMOND, LESLEY ESTHER	02/13/19
18-0745	DIRUZZO, JOSEPH ANDREW	09/26/18
18-0831	DUNHAM, MARC WAKEFIELD	12/05/18
18-0445	DUNNING JOHNNIE	06/20/18
18-1199	EBIKAM, OBINNA	02/27/18
17-1360	FISK, WALTER	03/28/18
18-1090/91	FOREMAN, NATHAN RAY	02/13/19
18-0787	FRANKLIN, DEMOND	12/12/18
17-0711	FRASER, MARIAN	11/01/17
18-0035	GARCIA, FREDDY	04/11/18
18-0639	GRIFFITH, DAVID RAY	09/26/18
16-1269	HOLDER, CHRISTOPHER JAMES	06/07/17
18-0275/76	HUGHITT, SHANA LYNN	05/23/18
18-0438	HYLAND, RICHARD	08/22/18
18-0642-44	INTERNATIONAL FIDELITY INS. CO.	12/12/18
17-1289	JONES, DEDRIC D'SHAWN	04/25/18
18-0552	JONES, JORDAN BARTLETT	07/25/18
18-0899	JORDAN, PATRICK	12/12/18
18-0005	LITCHFIELD, MARGARET FAYE	06/06/18
18-0894	LOCH, VITH	12/05/18
17-0878	MARTINEZ, JUAN JR.	01/24/18
18-1246	METCALF, LYDIA	02/06/19
18-0207	MILTON, DAMON ORLANDO	06/13/18
18-1047	MUSA-VALLE, JOSE	01/09/19
18-0474	PARKER, ADRIAN JEROME	06/20/18
18-0712	PIPER, MAURICE LAMAR	12/05/18
17-0255	RILEY, CHARLIE	06/20/18
17-1066	ROSS, DAI'VONTE E'SHAUN TITUS	01/24/18
18-0176	RUIZ, JOSE	04/25/18
17-1348	RUIZ, LAURO EDUARDO	03/28/18
18-0578	SIMPSON, ROBVIA LENEICE	08/22/18
17-0715	SMITH, JOSEPH	12/13/17
18-0556	STAHMANN, KARL DEAN	10/10/18
18-0867	TIMMINS, TROY ALLEN	11/21/18
17-0399	WALKER, KENYETTA DANYELL	08/23/17
18-1015	WATKINS, RALPH DEWAYNE	12/05/18
17-1199	WILLIAMS, ANDREW LEE	03/21/18
18-0870	WILLIAMS, JAMES E.	01/09/19
18-1427	WORK, SIDNEY ALEX	01/30/19

NUMERICAL LISTING WITH ISSUES GRANTED

16-0323 **SAFIAN, ANTHONY ROBERT** **08/24/16**
16-0324
16-0325
APPELLANT'S **TARRANT** **AGGRAVATED ASSAULT**
POSSESSION OF HEROIN
EVADING ARREST

The court of appeals erred when it affirmed the trial court's denial of the lesser-included jury charge of deadly conduct in the trial for aggravated assault on a public servant.

16-1269 **HOLDER, CHRISTOPHER JAMES** **06/07/17**
APPELLANT'S **COLLIN** **CAPITAL MURDER**

The Court of Appeals erred in holding the State's petition to obtain the Appellant's cell phone records set forth the "specific and articulable facts" required by federal law under 18 U.S.C. section 2703(d).

17-0399 **WALKER, KENYETTA DANYELL** **08/23/17**
STATE'S **ORANGE** **ENGAGING IN ORGANIZED**
CRIMINAL ACTIVITY

Can a conviction for a charged, but nonexistent, offense be reformed to a subsumed and proven offense that does exist?

17-0711 **FRASER, MARIAN** **11/01/17**
STATE'S **McLENNAN** **MURDER**

Can the felonies of reckless or criminally negligent injury to a child or reckless or criminally negligent child endangerment underlie a felony-murder conviction when the act underlying the felony and the act clearly dangerous to human life are one and the same?

17-0715 **SMITH, JOSEPH** **12/13/17**
APPELLANT'S **HARRIS** **AGGRAVATED ROBBERY**

1. The court of appeals employed the wrong analysis when reviewing the record to determine whether a "voluntary intoxication" instruction was error to include in Appellant's punishment-phase jury charge.
2. The inclusion of an 8.04(a) instruction at punishment violates the Due Process Clause because it could mislead a rational jury into believing that it could not — as a matter of law — consider a defendant's drug-addiction evidence as mitigation; thus the court of appeals's holding that it is not a charge error conflicts with applicable holdings of the U.S. Supreme Court.
3. In it's harm analysis of the State's unconstitutional jury argument, the court of appeals did not address how that argument highlighted inadmissible evidence and how it impermissibly increased the likelihood that the jury punished Appellant for an extraneous crime.

17-0734 **RAE, RUSSELL BOYD** **09/13/17**
APPELLANT'S **MARION** **DRIVING WHILE INTOXICATED**

Did the Court of Appeals err in finding that the prior conviction for operating a watercraft while intoxicated was a final conviction?

17-0771 **CHAMBERS, JOHN** **01/10/18**
APPELLANT'S **CAMERON** **TAMPERING WITH**
GOVERNMENTAL RECORD

1. The appellate court improperly reviewed the legal sufficiency of the evidence against Chambers pursuant to § 37.10 of the Texas Penal Code when it refused to acknowledge that the Texas Commission on Law Enforcement was acting in contravention of its legal authority.
2. This Court should summarily grant this petition for discretionary review and remand the case to the court of appeals because of that court's failure to comply with Texas Rule of Appellate Procedure 47.1.

3. The trial court abused its discretion by failing to submit an instruction to the jury on the applicable law regarding the distinction between an employee and a volunteer reservist.
4. The difference between the class A misdemeanor and the felony enhancement pursuant to § 37.10 of the Texas Penal Code is a distinction without a difference. In addition, the appellate court's reliance upon an improper application of law is legally insufficient to uphold a finding of an "intent to defraud."

17-0878 MARTINEZ, JUAN, JR. 01/24/18
APPELLANT'S BEE INTOXICATION MANSLAUGHTER

The Court of Appeals erred in holding that the trial court properly granted the defendant/appellee's motion to suppress evidence that revealed the results of testing of the blood of the defendant/appellee.

17-1066 ROSS, DAI'VONTE E'SHAUN TITUS 01/24/18
STATE'S BEXAR DISORDERLY CONDUCT

1. Does an information that tracks the language of section 42.01(a)(8) provide a defendant sufficient notice that he displayed a firearm in a manner calculated to alarm?
2. Did the court of appeals err by applying a First Amendment and Fourteenth Amendment rule to a Sixth Amendment complaint?
3. Is the term "alarm" within the context of section 42.01(a)(8) inherently vague?

17-1199 WILLIAMS, ANDREW LEE 03/21/18
APPELLANT'S BRAZORIA MANSLAUGHTER, ACCIDENT INVOLVING PERSONAL INJURY OR DEATH

The Court of Appeals erred in affirming the trial court's allowing evidence of a drug test without the testimony of the chemist who performed the testing.

17-1289 JONES, DEDRIC D'SHAWN 04/25/18
STATE'S HARRIS ASSAULT

1. The First Court erred in holding the trial court abused its discretion in excluding impeachment evidence. As the dissenting justice pointed out, the appellant's offer of proof failed to establish a causal or logical relationship between the excluded evidence and the witness's alleged bias. The First Court's opinion provides precedent for appellate courts to reverse trial courts based on speculation of what cross-examination *might* have revealed, rather than what the offer of proof showed it would reveal.
2. The First Court erred by failing to consider the weakness of the defensive evidence in conducting its harm analysis. The First Court looked only at the State's evidence, and ignored the fact that the appellant failed to produce evidence that would support a jury's finding that he acted in self-defense.

17-1346 ALFARO-JIMENEZ, PABLO 04/11/18
APPELLANT'S BEXAR TAMPERING WITH A GOVERNMENT DOCUMENT

1. Whether the right to a jury trial mandated by U.S. Const. Sixth and Fourteenth Amendments, and U.S. Const. Art. III § 2, and the concepts set out by this Court in *Apprendi* and *Blakely*, is violated by the procedure utilized by the Court of Appeals, that is, a judicial finding of an element not alleged in the indictment or submitted to the jury, which is an unacceptable departure from the jury tradition, an indispensable part of our criminal justice system, by making appellate courts fact finders as to an element not considered by the jury?
2. Whether the right to a jury trial and Due Process required by the Fifth, Sixth, and Fourteenth Amendments, and *Jackson v. Virginia*, 443 U.S. 307, 560 (1979), was violated when the Court of Appeals reformed the Petitioner's conviction to the conviction of a higher offense, when such higher offense was not determined by the jury, the factfinder resulting in a reformed verdict which was not rendered by the jury or the trial court?

17-1348 RUIZ, LAURO EDUARDO 03/28/18
APPELLANT'S BEXAR ATTEMPTED SEXUAL PERFORMANCE BY A CHILD

1. The Fourth Court of Appeals Majority Opinion misapplies the Standard of Review when examining article 38.23 of the Texas Code of Criminal Procedure.
2. The court of appeals' opinion puts it in conflict with other courts of appeals, which have applied constitutional violation analysis to private individuals under 38.23 of the Texas Code of Criminal Procedure.
3. As Petitioner was the prevailing party at the Motion to Suppress, the court of appeals should have deferred to the trial court and presume it found a violation of law sufficient to trigger the Texas Exclusionary Rule as such a finding is supported by the record.

17-1360 FISK, WALTER 03/28/18
STATE'S BEXAR INDECENCY W/ CHILD (3 CTS)

1. The current test for determining whether an out-of-state offense is substantially similar to an enumerated Texas offense is too broad. Accordingly, this Court should disavow that test and replace it with one that only compares the elements of the respective offenses.
2. Even if not disavowed, the court of appeals misapplied the current test when it concluded that the military's former sodomy-with-a-child statute is not substantially similar to Texas's sexual-assault statute.

18-0005 LITCHFIELD, MARGARET FAYE 06/06/18
APPELLANT'S CORYELL MURDER

In finding the evidence legally sufficient, did the Sixth Court of Appeals fail to consider: was the jury rationally justified in finding guilt beyond a reasonable doubt?

18-0035 GARCIA, FREDDY 04/11/18
STATE'S HARRIS AGGRAVATED SEXUAL ASSAULT

1. Is the constitutional harm standard the proper test for harm when there was a mere delay in the election versus no election at all and the jury is charged on a specific incident?
2. How specific must the factual rendition of a single incident in the jury charge be to serve the purposes of the election requirement?

18-0176 RUIZ, JOSE 04/25/18
STATE'S GONZALES DRIVING WHILE INTOXICATED

Is it unreasonable under the Fourth Amendment for an officer to rely on a driver's implied consent to a blood draw when the driver was involved in an accident, there is probable cause to believe he is intoxicated, and where the driver's own unconsciousness prevents the officer from effectively obtaining the driver's actual consent?

18-0207 MILTON, DAMON ORLANDO 06/13/18
APPELLANT'S HARRIS ROBBERY

Did the Court of Appeals error [sic] in holding the trial court did not abuse its discretion in allowing the State to play a video of a lion attempting to maul an infant during its closing argument?

18-0255 RILEY, CHARLIE 06/20/18
APPELLEE'S MONTGOMERY CONSPIRACY TO CIRCUMVENT TEXAS OPEN MEETINGS ACT

1. The Court of Appeals erred in holding that § 551.143 does not violate the First Amendment.
2. The Court of Appeals erred in holding that § 551.143 is not void for vagueness.
3. The Court of Appeals erred in failing to address claims raised by Riley that were material to its disposition of the issues.

18-0265 DAVENPORT, MARC 06/20/18
APPELLEE'S MONTGOMERY CONSPIRACY TO CIRCUMVENT TEXAS OPEN MEETINGS ACT

1. The Court of Appeals erred when it held that the Government Code section 551.143 applies to conduct rather than speech and therefore is not subject to strict scrutiny.
2. The Court of Appeals erred when it held that the Government Code section 551.143 is not unconstitutionally overbroad.
3. The Court of Appeals erred when it held that the Government Code section 551.143 is not unconstitutionally vague.

18-0275 **HUGHITT, SHANA LYNN** **05/23/18**
18-0276
STATE'S **BROWN** **ENGAGING IN ORGANIZED CRIMINAL ACTIVITY; POSSESSION OF CONTROLLED SUBSTANCE W/INTENT TO DELIVER**

1. Is possession with intent to deliver included as a listed predicate offense for engaging in organized criminal activity because the offense of delivery of a controlled substance in the Controlled Substances Act includes possession with intent to deliver?

18-0314 **CUEVAS, JEREMY** **06/06/18**
STATE'S **BEE** **ASSAULT ON PUBLIC SERVANT**

Is a peace officer moonlighting as private security "lawfully discharging an official duty" for purposes of proving assault on a public servant when acting under Tex. Alco. Bev. Code § 101.07, which dictates: "all peace officers in the state" "shall enforce the provisions of this code."

18-0438 **HYLAND, RICHARD** **08/22/18**
STATE'S **NUECES** **INTOXICATION MANSLAUGHTER**

1. The Thirteenth Court of Appeals erred in suggesting that the sustaining of a *Franks* motion and the purging of false statements from a search warrant affidavit triggers a heightened legal standard of "clear" probable cause with regard to the remaining allegations in the affidavit.
2. The Thirteenth Court of Appeals erred in concluding that a strong smell of alcohol on the breath of a driver involved in a serious motor vehicle accident does not furnish probable cause for a blood warrant.

18-0445 **DUNNING, JOHNNIE** **06/20/18**
STATE'S **TARRANT** **AGGRAVATED SEXUAL ASSAULT**

3. Whether the court of appeals properly determined that the post-conviction DNA testing results established a reasonable probability that the appellant would not have been convicted had they been available at the time of trial?
4. Whether the court of appeals gave proper deference to the trial court's determination of historical facts and application-of-law-to-fact issues that turn on credibility or demeanor?
5. Whether the court of appeals considered all the evidence before the trial court in making its article 64.04 finding before determining that post-conviction DNA testing results established a reasonable probability that the appellant would not have been convicted had they been available at the time of trial?

18-0474 **PARKER, ADRIAN JEROME** **06/20/18**
STATE'S **GREGG** **ENGAGING IN ORGANIZED CRIMINAL ACTIVITY; POSSESSION OF CONTROLLED SUBSTANCE; TAMPERING WITH EVIDENCE**

1. Is "possession with intent to deliver" a predicate offense for engaging in organized criminal activity because it falls within "unlawful manufacture, delivery...of a controlled substance,"which is one of EOCA's enumerated predicate offenses?
2. Can an EOCA conviction predicated on an offense that is not a predicate be reformed to that necessarily subsumed offense?

18-0527 **BURG, JAMES ALLAN II** **09/12/18**
APPELLANT'S **MONTGOMERY** **DRIVING WHILE INTOXICATED**

Does a failure to object to a driver's license suspension at trial bar complaint on appeal?

18-0552 **JONES, JORDAN BARTLETT** **07/25/18**
STATE'S **SMITH** **UNLAWFUL DISCLOSURE OF INTIMATE VISUAL MATERIAL**

1. Is Tex. Penal Code § 21.16(b) a content-based restriction on speech that is subject to strict scrutiny?
2. May a court of appeals find a statute unconstitutional based on a manner and means that was not charged?

3. Is Tex. Penal Code § 21.16(b) facially constitutional?

18-0556 STAHMANN, KARL DEAN 10/10/18
STATE'S COMAL TAMPERING WITH PHYSICAL EVIDENCE

1. Where this Court and other appellate courts have found evidence sufficient to support an 'alteration' under the tampering statute when an item's physical or geographical location is changed, did Stahmann err in failing to uphold Appellant's tampering conviction based on his undisputed 'alteration' of the pill bottle's location by throwing it away from himself and the crash site, over a fence, and into a patch of shrubbery?
2. Where the "dispositive inquiry is whether law enforcement noticed the object before the defendant tried to hide it and maintained visual contact" of the object, and law enforcement only learned of the existence and location of the evidence from a third-party witness well after Appellant threw it away, did Appellant "conceal" the pill bottle?

18-0560 COUTHREN, DONALD 09/12/18
APPELLANT'S BRAZOS DRIVING WHILE INTOXICATED

1. The opinion of the court of appeals is in conflict with opinions of the Court holding there must be evidence of dangerous or reckless operation of a vehicle to support a finding it was used as a deadly weapon and the occurrence of a collision or consumption of alcohol do not establish those elements.

18-0561 BELTRAN DE LA TORRE, LISANDRO 10/03/18
APPELLANT'S COLORADO POSSESSION OF CONTROLLED SUBSTANCE

1. The Court of Appeals erred in holding the trial court did not improperly comment on the evidence by providing a jury instruction on "joint possession" that added to the statutory definition of "possession."
2. The Court of Appeals erred in alternatively holding it was not error to refuse Appellant's requested jury instruction on "mere presence" while holding the jury instruction on "joint possession" was appropriate.

18-0577 CURRY, STEVEN 12/12/18
APPELLANT'S HARRIS FAILURE TO STOP AND RENDER AID

1. The Court of Appeals erred in determining that the evidence was sufficient to support Appellant's conviction for accident involving injury – failure to stop and render aid.
2. The Court of Appeals erred in affirming the trial court's refusal to give jury instruction on mistake of fact.

18-0578 SIMPSON, ROBVIA LENEICE 08/22/18
STATE'S ANDERSON ASSAULT ON PUBLIC SERVANT, AGGRAVATED ASSAULT

Does *Doan* apply when a defendant enters a plea of "true" to new criminal offenses in a motion to proceed or probation revocation and does the true plea legally bind the defendant guilty in the new criminal offenses?

18-0639 GRIFFITH, DAVID RAY 09/26/18
APPELLANT'S NAVARRO CONTINUOUS SEXUAL ABUSE OF YOUNG CHILD

2. Whether, as stated by Justice Gray in his dissent from Appellant's motion for rehearing, the evidence allowed the jury to have reasonably inferred that the second assault occurred on or before the victim's fourteenth birthday?

18-0642 INTERNATIONAL FIDELITY 12/12/18
18-0643 INSURANCE CO. (AGENT:
18-0644 GLENN STRICKLAND) DBA A-1 BONDING
APPELLANT'S HARRIS BOND FORFEITURE

The Texas Court of Criminal Appeals should accept this petition for discretionary review. Rule 66.3 of the Texas Rules of Appellate Procedure states that the following will be considered by the court in deciding whether to grant discretionary review:

(f) whether a court of appeals has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by a lower court, as to call for an exercise of the Court of Criminal Appeals' power of supervision.

These cases were selected to address an issue reserved by this Court in *Safety Nat'l Cas. Corp. v. State*, 305 S.W.3d 586 (Tex. Crim. App. 2010). The issue was raised by motion to retax costs and a motion for new trial. There was a contested hearing in which evidence was offered before the trial court. The parties stipulate that they requested a court reporte[r] and that a court reporte[r] appeared to transcribe the hearing at issue. However, when the record was filed before the court of appeals, no reporter's record was filed. The record was the subject matter of the hearing that was the issue to be appealed to the court of appeals. Without the record, it was presumed that all of the evidence offered supported the trial court's ruling. Therefore, the petitioner asked for a new trial. The court of appeals denied the request. This was error.

18-0710 DELAFUENTE, JESSE GALINDO 12/12/18
APPELLANT'S McLENNAN EVADING ARREST OR DETENTION W/VEHICLE

Following this Court's recent decision in *Shortt v. State*, when an appellant timely files a notice of appeal to appeal his conviction, must he file an additional notice of appeal to maintain his appeal of the conviction if the trial court later signs an order or judgment permitting "shock" probation?

18-0711 ADAMS, BRANDON JOSEPH 09/12/18
STATE'S TAYLOR AGGRAVATED ASSAULT

When a defendant is acquitted on a defense of a third person theory after stabbing a person engaged in a fight with a friend, does the collateral estoppel component of the Double Jeopardy Clause as articulated in Ashe v. Swenson and this Court's opinions bar his subsequent prosecution for stabbing another person who was not fighting?

18-0712 PIPER, MAURICE LAMAR 12/05/18
APPELLANT'S DALLAS MANSLAUGHTER

In concluding that Piper's trial counsel may have had a reasonable strategic reason for failing to request a voluntary-conduct charge instruction, the court of appeals reasoned that attorneys are under no duty to raise every defense available. But counsel *did* raise a voluntary-conduct defense — he just didn't then ask for the corresponding charge instruction. In ignoring this, did the court of appeals so far depart from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's power of supervision?

18-0723 CARSNER, LAURA 12/05/18
APPELLANT'S EL PASO CAPITAL MURDER

1. Whether, as a matter of law, evidence that has been forgotten by a defendant is unknown, for purposes of the newly-discovered-evidence rule, only if the defendant forgot about it because of a physical or mental condition, such as amnesia or repression, that was caused by a traumatic event, debilitating injury, or disease, the existence of which can be confirmed by science or medicine.
2. Whether, as a matter of law, a defendant who fails to recall evidence, once known but since forgotten, has not, for purposes of the newly discovered evidence rule, exercised diligence to discover or obtain such evidence.

18-0745 DIRUZZO, JOSEPH ANDREW 09/26/18
APPELLANT'S VICTORIA ILLEGAL PRACTICE OF MEDICINE

1. When a statute, Section 165.152 of the Texas Occupations Code, generally proscribes conduct that is also proscribed by a more specific statute, Section 165.153 providing for a lesser range of punishment, is it a violation of due process and due course of law to punish the offender in accordance with the broader statute calling for a greater range of punishment?
2. Is it ever proper for a Court to construe a statute, Section 165.153 of the Texas Occupations Code, in a manner that renders the entire statute superfluous?

18-0787 FRANKLIN, DEMOND 12/12/18
APPELLANT'S BEXAR CAPITAL MURDER

1. The Court of Appeals erred in ruling that appellant's *Miller v. Alabama* claim was forfeited by inaction.
2. The Court of Appeals erred by ruling the age of the defendant at the time of the offense is an affirmative defense for which the defendant bears the burden of proof.
3. Even if defendants bear the burden to prove when they were born, the Court of Appeals erred in affirming the judgment because the trial court never secured an express waiver from appellant, admission from appellant, or finding of fact that appellant was indeed over the age of eighteen [18] on October 22, 2014.

18-0831 DUNHAM, MARC WAKEFIELD 12/05/18
APPELLANT'S HARRIS DECEPTIVE BUSINESS PRACTICE

1. The evidence is legally insufficient to sustain Appellant's conviction for deceptive business practice where Appellant did not make any affirmative mis-representation, the State's theory of liability was based on an omission rather than an act, and the complainant accurately understood the commercial terms when the transaction occurred.
2. Whether deceptive business practice is a "nature-of-conduct" or "circumstance-of-conduct" offense and whether the jury must agree unanimously that the defendant committed the same specific act of deception to convict him. (C.R. 87-88; 4 R.R. 103-08).

18-0867 TIMMINS, TROY ALLEN 11/21/18
APPELLANT'S BANDERA FAILURE TO APPEAR & BAIL JUMPING

In an issue of first impression, did the court of appeals correctly determine that the evidence is legally sufficient to support a conviction for "failure to appear & bail jumping" when a trial court revokes a defendant's bail in open court, remands the defendant to jail, and the defendant fails to report to jail as ordered?

18-0870 WILLIAMS, JAMES E. 01/09/19
STATE'S TARRANT ATTEMPTED KIDNAPPING

1. The trial court's order correcting its prior judgment was signed while the trial court retained plenary power. Although labeled as a "Nunc Pro Tunc Order," the court of appeals concluded that the order was merely a modification of the judgment and not an order "nunc pro tunc." The court of appeals reasoned that a "nunc pro tunc" order/judgment, by definition, can only be entered after the trial court loses plenary power. Texas case law and the rules of appellate procedure suggest that the majority is incorrect. This Court should clarify the issue.
2. Trial court's order correcting a clerical error in the judgment is a valid nunc pro tunc order. Under Texas law, a nunc pro tunc order is an "appealable order" under Tex. R. App. P. 26.2 (a)(1). As such, Appellant had 30 days to file his notice of appeal. Because Appellant's notice of appeal was untimely, isn't the dissenting opinion of the Second Court of Appeals correct in concluding that Appellant's appeal should have been dismissed for lack of jurisdiction?

18-0894 LOCH, VITH 12/05/18
STATE'S HARRIS MURDER

1. Is the failure to admonish about immigration consequences under Tex. Code Crim. Proc. art. 26.13(a)(4) harmful when the defendant was already deportable at the time of his guilty plea due to prior convictions?
2. Is the failure to admonish about immigration consequences under Tex. Code Crim. Proc. art. 26.13(a)(4) harmful when the defendant knew he was already deportable at the time of his guilty plea due to prior convictions?
3. Was the failure to admonish about immigration consequences under Tex. Code Crim. Proc. art. 26.13(a)(4) harmful when Appellant was already deportable, the evidence of guilt was overwhelming, and he was morally motivated to plead guilty?

18-0899 JORDAN, PATRICK 12/12/18
APPELLANT'S BOWIE DEADLY CONDUCT

1. What quantum of evidence must the accused present to avail himself of self-defense/defense of others when the alleged victim was not a primary threat?
2. Does a Defendant's intent to exercise self-defense/defense of others transfer to other assailants when the Defendant is only confronted with the fists of the primary threat?

18-0921 BUCK, MICHAEL J. 12/05/18
APPELLANT'S EL PASO AGGRAVATED SEXUAL

ASSAULT (2 CTS)

1. By holding that Michael's waiver of the right to appeal was enforceable and that the trial court's "admonishment" that induced Michael to plead guilty did not violate Due Process and Article 26.13, the Eighth Court's opinion conflicts with decisions from this Court and the United States Supreme Court.
2. By holding that Michael's waiver of the right to appeal was enforceable and by ruling that the trial court's misstatements about its ability to cumulate the sentences—made as it sought to induce Michael to plead guilty—did not invalidate the plea, the Eighth Court's opinion creates direct conflicts with other courts of appeals on issues now pending before this Court.
3. By relying directly on bad/outdated law for the timing of an election and on the impossible scenario of the court sentencing Michael even if he pleaded guilty to the jury to reject Michael's appeal, and by not addressing Michael's argument that the trial court coerced him to plead guilty after he said he wanted a trial on trial day, the Eighth Court's opinion departs from an acceptable course of judicial proceedings and calls for this Court to exercise its power of supervision.

18-1015 WATKINS, RALPH DEWAYNE 12/05/18
APPELLANT'S NAVARRO POSSESSION OF CONTROLLED SUBSTANCE

While reviewing a violation of the Michael Morton Act, the Court of Appeals erred in its materiality analysis.

18-1042 ALLEN, RUBEN LEE 12/12/18
APPELLANT'S & STATE'S HARRIS AGGRAVATED ROBBERY

Appellant's Ground for Review:
Whether the First Court of Appeals erred when it misinterpreted Peraza v. State, 467 S.W.3d 508 (Tex. Crim. App. 2015) and failed to apply Salinas v. State, 523 S.W.3d 103 (Tex. Crim. App. 2017) in determining that the summoning witness/mileage fee under Texas Code of Criminal Procedure Article 102.011 was not facially unconstitutional because the court cost was for a direct expense incurred by the State even though the statute does not direct the funds collected to be used for a legitimate criminal justice purpose?
State's Ground for Review:
This Court should overrule Carson, Peraza, and Salinas and return to the original understanding of Article II Section I of the Texas Constitution, which did not impose limitations on the Legislature's ability to assess court costs.

18-1047 MUSA-VALLE, JOSE 01/09/19
APPELLEE'S BEXAR DISCHARGE OF FIREARM IN MUNICIPALITY

1. Did the court of appeals err by failing to recognize municipalities' authority, granted pursuant to the doctrine of home-rule cities and by Texas Penal Code § 42.12(d), to ban the discharge of firearms?
2. Did the lower court err by holding the San Antonio Ordinance should be construed as a strict liability crime?
3. Did the court of appeals misconstrue the doctrine of in pari materia by requiring that all elements in the provisions of law being compared must be identical?

18-1090 FOREMAN, NATHAN RAY 02/13/19
18-1091
STATE'S HARRIS AGGRAVATED ROBBERY AGGRAVATED KIDNAPPING

1. The Fourteenth Court erred by holding that a magistrate could not infer from the warrant affidavit that an auto body shop would have a surveillance system. The Fourteenth Court held that before a magistrate could consider common knowledge, the matter must be "beyond dispute," a civil standard the Fourteenth Court grafted onto Fourth Amendment law.
2. The Fourteenth Court erred by holding that when officers see a surveillance system recording a location where crime occurred two weeks prior, they do not have probable cause to seize the system's hard drive unless they know what is on the hard drive prior to examining it.
3. The Fourteenth Court erred by holding that the error required reversal, even under the standard for non-constitutional error, where the State's remaining evidence was overwhelming and the defense non-existent.

18-1199 EBIKAM, OBINNA 02/27/19
APPELLANT'S BEXAR ASSAULT

Whether a defendant's failure to admit the exact manner and means of an assault as set forth in a charging instrument is a sufficient basis to deny a jury charge on self-defense.

18-1246 METCALF, LYDIA 02/06/19
STATE'S PANOLA SEXUAL ASSAULT

The court of appeals erred by striking down the jury's verdict that Metcalf was guilty as a party for the sexual assault of her daughter.

18-1247 WORK, SIDNEY ALEX 01/30/19
APPELLANT'S MILLS POSSESSION OF CONTROLLED SUBSTANCE; TAMPERING W/EVIDENCE

1. The Court of Appeals erred when it held that prior possession and use of contraband may be admitted to prove knowledge of contraband and intent to possess contraband under Rules 403 and 404(b) of the Texas Rules of Evidence.
2. The Court of Appeals erred when it held that prior possession and use of contraband may be admitted under Rules 403 and 404(b) of the Texas Rules of Evidence to rebut the defensive theory that the defendant lacked knowledge of the presence of contraband.
3. The Court of Appeals erred when it held that prior possession and use of contraband may be admitted under Rules 403 and 404(b) of the Texas Rules of Evidence to prove the identity of the person who possessed the contraband.
4.The Court of Appeals erred when it held that prior possession and use of contraband may be admitted under the doctrine of chances.

18-1299 DIAMOND, LESLEY ESTHER 02/13/19
STATE'S HARRIS DRIVING WHILE INTOXICATED

The majority opinion is erroneous because it results from an incorrect application of the standard of review.